

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Connect America Fund</b>	)	<b>WC Docket No. 10-90</b>
	)	
<b>A National Broadband Plan for Our Future</b>	)	<b>GN Docket No. 09-51</b>
	)	
<b>Establishing Just and Reasonable Rates for Local Exchange Carriers</b>	)	<b>WC Docket No. 07-135</b>
	)	
<b>High-Cost Universal Service Support</b>	)	<b>WC Docket No. 05-337</b>
	)	
<b>Developing an Unified Intercarrier Compensation Regime</b>	)	<b>CC Docket No. 01-92</b>
	)	
<b>Federal-State Joint Board on Universal Service</b>	)	<b>CC Docket No. 96-45</b>
	)	
	)	<b>WC Docket No. 03-109</b>
<b>Lifeline and Link-Up</b>	)	
	)	<b>WT Docket No. 10-208</b>
<b>Universal Service Reform – Mobility Fund</b>	)	

**REPLY TO OPPOSITIONS**

Pursuant to § 1.429(g) of the Federal Communications Commission’s (“FCC”) rules, the Public Service Commission of the District of Columbia (“DC PSC”) respectfully submits this reply in response to several Oppositions and Comments filed in response to the DC PSC’s Petition for Reconsideration<sup>1</sup> of the new 47 C.F.R. § 51.915(e)(3), included in the November 18, 2011 Report and Order and Further Notice of Proposed Rulemaking in the *Connect America Fund*; *A National Broadband Plan for our Future*; *Establishing Just and Reasonable Rates for Local Exchange Carriers*; *High-Cost Universal Service Support*; *Developing a Unified*

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<sup>1</sup> *Connect America Fund*; *A National Broadband Plan for our Future*; *Establishing Just and Reasonable Rates for Local Exchange Carriers*; *High-Cost Universal Service Support*; *Developing a Unified Intercarrier Compensation Regime*; *Federal-State Board on Universal Service*; *Lifeline and Link Up*; *Universal Service Reform – Mobility Fund*, WC Dockets No. 10-90, 07-135, 05-337, 03-109, CC Dockets No. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Petition for Reconsideration of the Public Service Commission of the District of Columbia (“DC PSC Petition”), filed December 29, 2011.

*Intercarrier Compensation Regime; Federal-State Board on Universal Service; Lifeline and Link Up; Universal Service Reform – Mobility Fund* (“USF/ICC Order”).<sup>2</sup> For the reasons stated below, the oppositions to the DC PSC’s request to amend or waive 47 C.F.R. § 51.915(e)(3) do not provide a justification for denying the DC PSC’s Petition for Reconsideration.

**THE NEW 47 C.F.R. § 51.915(e)(3) IS UNFAIR TO DISTRICT OF COLUMBIA CUSTOMERS**

Contrary to the Oppositions filed by the United States Telecom Association (“US Telecom”)<sup>3</sup> and AT&T Inc. (“AT&T”),<sup>4</sup> the FCC’s decision to permit price cap incumbent local exchange carriers (“ILEC”) to calculate the Access Recovery Charge (“ARC”) at the holding company level is unfair to consumers in the District of Columbia. US Telecom implies that District of Columbia consumers are in a similar position as consumers that have low intrastate access rates; thus, there is nothing unfair about spreading lost access revenue recovery across all customers of a holding company.<sup>5</sup> US Telecom ignores the fact that the District of Columbia is uniquely situated. Unlike other jurisdictions that may have a low intrastate access rate, there is

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<sup>2</sup> *Connect America Fund; A National Broadband Plan for our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Board on Universal Service; Lifeline and Link Up; Universal Service Reform – Mobility Fund*, WC Dockets No. 10-90, 07-135, 05-337, 03-109, CC Dockets No. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking (“USF/ICC Order”), rel. November 18, 2011. The Order and Further Notice of Proposed Rulemaking was published in the Federal Register on November 29, 2011 at 76 *Fed. Reg.* 73830-73883.

<sup>3</sup> *Connect America Fund; A National Broadband Plan for our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Board on Universal Service; Lifeline and Link Up; Universal Service Reform – Mobility Fund*, WC Dockets No. 10-90, 07-135, 05-337, 03-109, CC Dockets No. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Opposition of the United States Telecom Association (“US Telecom Opposition”), filed February 9, 2012.

<sup>4</sup> *Connect America Fund; A National Broadband Plan for our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Board on Universal Service; Lifeline and Link Up; Universal Service Reform – Mobility Fund*, WC Dockets No. 10-90, 07-135, 05-337, 03-109, CC Dockets No. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Comments of AT&T (“AT&T Comments”), filed February 9, 2012.

<sup>5</sup> US Telecom Opposition at 3-4.

no lost intrastate access revenue in the District of Columbia at all because there are no intrastate access services.<sup>6</sup> It is patently unfair to spread the recovery of lost revenues to District of Columbia consumers who had no role whatsoever in the revenues being lost.

US Telecom argues that, contrary to the DC PSC Petition, the FCC indicated that it had sufficient legal authority to permit the ARC to be calculated at the holding company level as part of its authority to implement transition mechanisms.<sup>7</sup> However, the FCC's legal authority to develop general transition mechanisms was not at issue in the DC PSC Petition. Instead, the DC PSC sought a legal justification for the creation of any specific mechanism that would shift the burden of compensating ILECs for revenue lost in one jurisdiction onto the shoulders of those in another jurisdiction where no revenue was lost. Additionally, the DC PSC sought an explanation of how section 2(b) of the Communications Act is not implicated by this recovery of lost intrastate revenues. Since the FCC did not provide any legal reasoning for these narrow decisions in the *USFVICC Order*, the DC PSC seeks those explanations in its Petition for Reconsideration.

In support of the FCC's conclusions that competitive pressures will keep ARCs low, US Telecom argues that the DC PSC's picture of competition in the District of Columbia fails to recognize the wide variety of telecommunications services in the District of Columbia.<sup>8</sup> What US Telecom fails to recognize is that while there may be many options for bundled, advanced, or wireless telecommunications services in the District of Columbia, there is little or no competition for traditional basic wireline service, which is still preferred by some customers. As the DC PSC

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<sup>6</sup> The District of Columbia is also unique among the jurisdictions in that it will receive no support from the CAF, making the imposition of the ARC on its consumers even more egregious.

<sup>7</sup> US Telecom Opposition at 5.

<sup>8</sup> US Telecom Opposition at 5.

indicated in the Petition for Reconsideration, there was no argument among the parties about the status of residential service as a non-competitive, basic service in the DC PSC's most recent price cap plan proceeding.<sup>9</sup> So even if the maximum ARC were imposed on residential customers, the price for basic wireline service would remain lower than many bundled rates in the District of Columbia. Thus, there is no competitive pressure not to impose the full ARC on basic wireline customers. In determining whether competitive pressures would restrain the imposition of the ARC, a comparison of all telecommunications services existing in the District of Columbia in the aggregate is not appropriate, since some of these services cannot be substituted for each other.

**47 C.F.R. § 51.915(e)(3) IS INTERNALLY INCONSISTENT.**

As other parties have noted,<sup>10</sup> the FCC has generally permitted the implementation of pricing rules on a study area basis. In fact, even to calculate the ARC, the FCC uses study areas:

[f]or the purposes of this section, a Price Cap Carrier holding company includes all of its wholly-owned operating companies that are price cap incumbent local exchange carriers. A Price Cap Carrier Holding Company may recover the eligible recovery attributable to any price cap plan study areas operated by its wholly-owned operating companies through assessments of the Access Recovery Charge on end users in any price cap study areas operated by its wholly-owned operating companies that are price cap incumbent local exchange carriers.<sup>11</sup>

Thus, study areas are used to determine the geographic areas from which price cap ILECs may collect eligible recovery and to identify end users that may be assessed the ARC. However, in

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<sup>9</sup> DC PSC Petition at 5.

<sup>10</sup> *Connect America Fund; A National Broadband Plan for our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Board on Universal Service; Lifeline and Link Up; Universal Service Reform – Mobility Fund*, WC Dockets No. 10-90, 07-135, 05-337, 03-109, CC Dockets No. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Petition for Reconsideration of the United States Telecom Association at 30, filed December 29, 2011; Opposition of CenturyLink at 23-24, filed February 9, 2012; Opposition of the Independent Telephone & Telecommunications Alliance at 13-14, filed February 9, 2012.

<sup>11</sup> 47 C.F.R. § 51.915(e)(3).

calculating the amount of the ARC for each end user, the FCC changes its geographic area to be the entire holding company area. This change in geographic area makes the rule both internally inconsistent and inconsistent with the FCC's prior practice. The DC PSC urges the FCC to make its rule internally consistent by requiring price cap ILECs to calculate the ARC on a study area basis, not a holding company basis.

**THE FCC SHOULD GRANT THE DISTRICT OF COLUMBIA A WAIVER FROM THE REQUIREMENTS OF 47 C.F.R. § 51.915(e)(3).**

If the FCC declines to amend 47 C.F.R. § 51.915(e)(3) to make it more equitable and less internally inconsistent, it should at least exempt the District of Columbia from its provisions. This would alleviate the inequity of requiring that District of Columbia consumers compensate its price cap ILEC for lost revenues from other jurisdictions while they receive no benefits from the Connect America Fund ("CAF"). Since the District of Columbia is a small jurisdiction, exemption from this rule would not upset any balancing of the recovery of lost revenue alluded to by AT&T in its Opposition.<sup>12</sup>

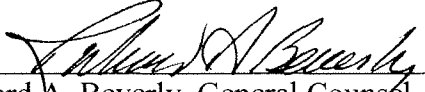
The DCPSC appreciates the opportunity to file this Reply. We ask the FCC to consider the inequities we have pointed out herein and either grant the Petition for Reconsideration or grant the District of Columbia a waiver from 47 C.F.R. § 51.915(e)(3).

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<sup>12</sup> AT&T Comments at 45.

Respectfully submitted,

**PUBLIC SERVICE COMMISSION  
of the DISTRICT OF COLUMBIA**

By:   
Richard A. Beverly, General Counsel  
Veronica Ahern, Deputy General Counsel  
Lara Howley Walt

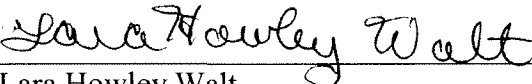
1333 H Street, N.W.  
Suite 200, West Tower  
Washington, D.C. 20005  
202-626-5100

Its Attorneys

February 21, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that on February 21, 2012, a copy of the foregoing was sent via United States mail, postage prepaid, to the following:

  
Lara Howley Walt

Jonathan Banks  
Glenn Reynolds  
United States Telecom Association  
607 14<sup>th</sup> Street, NW, Suite 400  
Washington, DC 20005

Cathy Carpino  
Christopher Heimann  
Gary L. Philips  
Paul K. Mancini  
AT&T Services, Inc.  
1120 20<sup>th</sup> Street, NW, Suite 1000  
Washington, DC 20036

Genevieve Morelli  
Micah M. Caldwell  
ITTA  
1101 Vermont Avenue, NW, Suite 501  
Washington, DC 20005

Jeffrey S. Lanning  
1099 New York Avenue, NW  
Suite 250  
Washington, DC 20001

Timothy M. Boucher  
Todd Lundy  
Tiffany West Smink  
1099 New York Avenue, NW  
Suite 250  
Washington, DC 20001

Yanon Dori  
Daniel Kahn  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004